

Fiscal Estimate - 2009 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 09-2142/1		Introduction Number AB-0214	
Description Posttermination of parental rights contact between a child and a birth relative of the child and disclosure of the report of an investigation of the home of a proposed adoptive parent on the request of the proposed adoptive parent			
Fiscal Effect			
State:			
<input type="checkbox"/> No State Fiscal Effect			
<input checked="" type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
Local:			
<input type="checkbox"/> No Local Government Costs			
<input checked="" type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected			
<input type="checkbox"/> Towns		<input type="checkbox"/> Village	
<input checked="" type="checkbox"/> Counties		<input type="checkbox"/> Cities	
<input type="checkbox"/> School Districts		<input type="checkbox"/> Others	
		<input type="checkbox"/> WTCS Districts	
Fund Sources Affected		Affected Ch. 20 Appropriations	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
Agency/Prepared By		Authorized Signature	Date
DCF/ Nick Bubb (608) 266-5422		Robert Nikolay (608) 261-4349	8/5/2009

Fiscal Estimate Narratives

DCF 8/5/2009

LRB Number	09-2142/1	Introduction Number	AB-0214	Estimate Type	Original
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Assumptions Used in Arriving at Fiscal Estimate

Current law on termination of parental rights (TPR) severs all legal rights and duties between a birth parent and child. Wisconsin law does not provide for enforceable post adoption or post termination contact agreements between birth parents or other birth relatives and adoptive parents, with a few exceptions.

This bill permits a post-termination contract to be entered into by the adoptive parents, or if there are no adoptive parents, the agency having guardianship, legal custody, or supervision of the child and a birth relative of the child. The agreement must be entered into before the termination of parental rights (TPR), and the following requirements must be met:

- The child is under the legal custody, guardianship, or supervision of an agency;
- The birth parent has agreed to voluntarily consent to the TPR, or to not contest an involuntary TPR (and the decision to voluntarily consent or to not contest must be made prior to the fact-finding hearing); and
- The child, if 12 years of age or older, consents to the agreement.

The bill also requires that child welfare agencies (and in the case of Milwaukee County –the Department of Children and Families) and the child's guardian ad litem to submit recommendations regarding the post-TPR contract.

This bill may create additional work for child welfare agencies in preparing recommendations regarding a post-TPR contract. However, this increase in work is expected to be significant and could likely be absorbed with current resources. The information contained in these recommendations would be a small addition to the court report that agencies already prepare for TPR hearings.

Additionally, the proposed law may create additional costs for parents who litigate to enforce their post-TPR contract. The number of parents who might pursue this litigation is unknown and presumed to be small. Moreover, these additional legal costs, if any, may be balanced with some savings from a shorter period of litigation during the TPR process. Currently, there is no option to recognize a post-TPR contract, creating a longer period of litigation to terminate the parental rights. The proposed law allows for parents to voluntarily agree to a termination of parental rights in exchange for the terms of the post-TPR contract. With the approval of the court, the terms of the contract may include: visitation, communication, sharing information, and sharing the medical history of the birth parents.

Because of the uncertainties of how many posttermination contract agreements will be entered into and the effect on agencies and courts, the fiscal effect of this bill cannot be determined.

Long-Range Fiscal Implications

Fiscal Estimate - 2009 Session

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Fiscal Effect State: <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 35%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs </div> </div> Local: <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 65%;"> 5. Types of Local Government Units Affected <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> Towns <input type="checkbox"/> Counties <input type="checkbox"/> School Districts </div> <div style="width: 35%;"> <input type="checkbox"/> Village <input type="checkbox"/> Others <input type="checkbox"/> WTCS Districts </div> <div style="width: 35%;"> <input type="checkbox"/> Cities </div> </div> </div> </div>		
<div style="display: flex; justify-content: space-between;"> <div> Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS </div> <div> Affected Ch. 20 Appropriations </div> </div>		
Agency/Prepared By DOC/ Dawn Woeshnick (608) 240-5417	Authorized Signature Robert Margolies (608) 240-5056	Date 4/27/2009

Fiscal Estimate Narratives

DOC 4/27/2009

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Assumptions Used in Arriving at Fiscal Estimate

This bill permits a post termination contract agreement that may provide for visitation of a child by a birth relative of the child; future contact and communication between the child, adoptive parent, or agency and a birth relative of the child; sharing of information about the child in the future between the adoptive parent or agency and a birth relative of the child; and maintenance and sharing of the medical and genetic history of any birth relative who is a party to the agreement.

This bill should have minimal impact on the Department of Corrections and perhaps a larger impact on local partner agencies. There may occasionally be a situation when contact and communication would be requested between a Division of Juvenile Corrections (DJC) youth and a birth relative in regard to a post termination contract. However, it is not possible to determine the likelihood of this situation occurring.

If the situation did occur, an investigation of the post termination contract and its application to a DJC youth would occur. Time would be required to complete the investigation and work through any situation in which a birth relative contests the DJC decisions.

It is not possible to determine how many juveniles would be impacted by this bill, therefore an exact fiscal estimate can not be calculated.

Long-Range Fiscal Implications

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Agency/Prepared By		Authorized Signature	
SPD/ Mike Tobin (608) 266-8259		Krista Ginger (608) 264-8572	
		Date	
		4/21/2009	

Fiscal Estimate Narratives

SPD 4/21/2009

LRB Number	09-2142/1	Introduction Number	AB-0214	Estimate Type	Original
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Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill does not provide for a new criminal offense, expand the definition of a criminal offense, or increase criminal penalties. However, it would amend chapter 48, regarding termination of parental rights (TPR) cases. The SPD provides representation in these proceedings when a parent faces the involuntary termination of his or her rights. The bill does not specify whether a parent would have a statutory right to counsel in a hearing to modify or revoke a post-termination agreement to allow limited visitation or other communication between the parent and the child. Thus, it is possible that juvenile courts may refer parents for SPD representation in these proceedings under the general right to counsel in TPR cases set forth in section 48.23, Stats.

SPD cannot determine how the courts would ultimately rule regarding whether a right to SPD representation would be created by this bill. Thus, the SPD might need to appoint attorneys in additional juvenile proceedings if the bill is adopted. The average cost for this type of proceeding is \$ 199.05, based upon data from fiscal year 2008.

The SPD does not have data available to estimate the number of additional appointments that might result from the bill. However, the SPD could track the number of cases in the future, if this bill is enacted.

Counties are also subject to increased costs when a new crime or other court proceeding is created. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. The court also has the discretion to appoint attorneys at county expense in proceedings in which the SPD is not authorized to provide representation. Thus, the counties would experience increased costs attributable to additional juvenile proceedings.

Long-Range Fiscal Implications